

FILED
APR 16 2018
MAGISTRATE JUDGE, JEFFREY COLE
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In the Matter of:

SOUTH SUBURBAN PHARMACY
3300 West 177th Street, Suite 1E
Hazel Crest, Illinois 60429

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)
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No.

18 M2 58

Magistrate Judge Cole

**APPLICATION AND AFFIDAVIT FOR
ADMINISTRATIVE INSPECTION WARRANT**

The United States of America, by John R. Lausch, Jr., United States Attorney for the Northern District of Illinois, requests an administrative inspection warrant pursuant to 21 U.S.C. § 880(d) and states the following in support:

Jurisdiction

1. The court has the authority to issue warrants for the purposes of conducting administrative inspections and seizing property appropriate to such inspections upon a showing of probable cause under the Controlled Substances Act, 21 U.S.C. §§ 801 *et seq.* 21 U.S.C. § 880(d)(1).

2. Under the Act, the term “probable cause” is broadly defined to mean “a valid public interest in the effective enforcement of [the Act] or regulations thereunder sufficient to justify administrative inspections of the area, premises, building, or conveyance, or contents of thereof, in the circumstances specified in the application for the warrant.” *Id.*

Facts

3. South Suburban Pharmacy is a pharmacy registered under 21 U.S.C. § 823 in drug schedules II, IIIn, III, IIIIn, IV, and V under DEA number BS9751492 since May 2006. Its current registered place of business is 3330 West 177th Street, Suite 1E, Hazel Crest, Illinois 60429. This

place of business is a controlled premises within the meaning of 21 U.S.C. § 880(a) and 21 C.F.R. § 1316.02(c).

4. As a DEA registered pharmacy, South Suburban Pharmacy is required to keep complete and accurate records of all controlled substances received, dispensed, purchased, delivered, or otherwise disposed of pursuant to 21 U.S.C. § 827 and 21 C.F.R. §§ 1304 *et seq.* at its controlled premises of 3330 West 177th Street, Suite 1E, Hazel Crest, Illinois 60429.

5. Examination of DEA files and records has revealed that South Suburban Pharmacy's controlled premises at 3330 West 177th Street, Suite 1E, Hazel Crest, Illinois 60429, has not been inspected since it became registered with the DEA in May 2006.

6. In October 2017, the DEA received information from a suburban police department regarding the recovery of several prescription drugs bearing the names of different individuals. One of the persons from whom the drugs (including alprazolam 2mg, a Schedule IV controlled substance, and promethazine with codeine cough syrup, a Schedule V controlled substance) were recovered informed the police that fraudulent prescriptions in the names of various individuals are routinely filled at South Suburban Pharmacy, located at 3330 West 177th Street, Suite 1E, Hazel Crest, Illinois 60429 (after a call is made to a pharmacist there) and are then sold for cash. One of the persons from whom the drugs were seized is known to the DEA as a leader within a drug trafficking organization, which during the time period of June 2016 to December 2017 caused to be filled about 200 fraudulent controlled substance prescriptions at pharmacies in Illinois, Indiana, Iowa, North Carolina, and Tennessee. When the information on these prescriptions was compared to the DEA registration certification, the phone number and occasionally the physician's address or practice name were incorrect. The phone number was incorrect on all of the prescriptions.

During the course of the investigation, around nine practitioner's names and DEA registration numbers were used on the fraudulent prescriptions.

7. On or about October 8, 2017, Diversion Investigator Anita Kasza requested an Illinois Prescription Monitoring Program (ILPMP) report for South Suburban Pharmacy, located at 3330 West 177th Street, Suite 1E, Hazel Crest, Illinois 60429, registered with the DEA under registration number BS9751492. Under 70 Ill. Adm. Code § 2080.100(a)-(b), all pharmacies are required to report to a centralized database the controlled substance prescriptions they had filled in the previous month. On or about October 18, 2017, Investigator Kasza received a response from the ILPMP saying that there was no data to report—meaning that South Suburban Pharmacy is not reporting to the ILPMP as required.

8. On or about October 18, 2017, Investigator Kasza contacted the Illinois Department of Financial and Professional Regulation (IDFPR) Board of Pharmacy to inquire about the status of South Suburban Pharmacy's state licensure and history of disciplinary action. Investigator Kasza learned from IDFPR Investigator Elizabeth Bhogapurapu that South Suburban Pharmacy's pharmacist in charge is Carroll Smith (Illinois Pharmacist License number 051032006) and that the pharmacy's owner is Marcel Jean. IDFPR disciplined Smith's pharmacist license following a February 9, 2015 inspection that uncovered the following violations: licensees or registrants failing to wear identification bearing name and designation; an individual who did not hold a pharmacist license or a certificate of registration to practice as a pharmacy technician engaging in the dispensing process; failing to secure the pharmacy area from access by non-licensed persons whenever the pharmacy was not occupied by a registrant; storing food items and beverages in a refrigerator used to store drugs; failing to routinely provide counseling; failing to maintain adequate labeling on prepackaged drugs; and having several expired vials of medication in the

active stock. As a result of the inspection, South Suburban Pharmacy's Illinois license number 054015826 was "Reprimanded" and the pharmacy was assessed a \$5,000 fine. A search of IDFPR's online records database revealed an expired (March 31, 2016) pharmacy technician license number 049107198 issued to Marcel Jean of Hazel Crest. The licensed was not renewed by IDFPR for "being more than 30 days delinquent in the payment of child support."

9. To ensure South Suburban Pharmacy's compliance with the Controlled Substances Act, 21 U.S.C. § 801 *et seq.*, and the implementing regulations, it is necessary to conduct an inspection to inspect, copy, and verify the correctness of records, reports, or other documents required to be kept or made under the Act, and to otherwise facilitate the carrying out of the Attorney General's functions under the Act, 21 C.F.R. § 1316.09(a)(2), 21 U.S.C. § 880(b)(1).

10. Investigator Anita Kasza is a duly appointed DEA diversion investigator assigned to the DEA Chicago, Illinois Division Office. Pursuant to 21 U.S.C. §§ 878(a)(2), 880(b)(1),(2), and (3), and 28 C.F.R. § 3, Appendix to Subpart R, Investigator Kasza is authorized to execute administrative inspection warrants for the purpose of inspecting controlled premises of persons registered under the Act in order to inspect, copy, and verify the correctness of all inventories, records, and other documents required to be kept or made under 21 U.S.C. § 827, 21 C.F.R. § 1304.01 *et seq.*

11. To preserve and promote the valid public interest in the effective enforcement of the Controlled Substances Act and implementing regulations, DEA must inspect South Suburban Pharmacy's controlled premises at 3330 West 177th Street, Suite 1E, Hazel Crest, Illinois 60429, to verify the correctness of inventories, records, and other documents required to be kept under the Act and the security provisions employed by South Suburban Pharmacy in the storing and handling of controlled substances.

12. The necessary inspection of South Suburban Pharmacy's controlled premises will begin as soon as practicable after a warrant is issued during regular business hours and will be completed with reasonable promptness, and the inspection warrant will be returned within ten days of its issuance. Further, the inspecting DEA investigators and/or agents will present their credentials prior to conducting the inspection.

13. The inspection will involve reviewing and copying of inventories, records, reports, order forms, invoices, dispensing records, prescriptions, and other documents required to be kept. The inspection will also extend to reviewing and copying all other things therein, including records, files, and papers appropriate for verifying the records, reports, and documents required to be kept under the Controlled Substances Act.

14. The inspection will also extend to reviewing and inventorying stocks of all controlled substances on hand and pertinent equipment associated with the storage and handling of controlled substances.

15. During the inspection, DEA investigators will seize records and/or samples of controlled substances if necessary and applicable.

16. The inspection will be conducted by one or more DEA investigators/agents who are authorized to conduct administrative inspections.

17. Investigator Kasza or an authorized agent will return the warrant upon completion of the inspection.

18. The United States attaches the affidavit of Investigator Kasza to verify the statements contained in this motion. Investigator Kasza will execute this affidavit under oath administered by this court.

WHEREFORE, the United States requests that the court issue an administrative inspection warrant submitted herewith pursuant to 21 U.S.C. § 880(d).

Respectfully submitted,

JOHN R. LAUSCH, Jr.
United States Attorney

By: s/ Alex Hartzler

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COUNTY OF COOK)
STATE OF ILLINOIS)
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AFFIDAVIT

I, Anita Kasza, being first duly sworn under oath, depose and state the following:

1. I am a duly appointed Diversion Investigator for the Drug Enforcement Administration (DEA), United States Department of Justice, currently assigned to the Chicago Field Division Office, Chicago, Illinois, and have been so employed for approximately six years.
2. Pursuant to 21 U.S.C. §§ 878(a)(2), 880(b)(1), (2), and (3), and Appendix to Subpart R, Title 28, Code of Federal Regulations, I am authorized to execute administrative inspection warrants for the purpose of inspecting the controlled premises of persons and firms registered under the Controlled Substances Act, 21 U.S.C. § 801, *et seq.*, to inspect, copy and verify the correctness of all records, reports, and other documents required to be kept or made under Title 21, U.S.C. § 827 and 21 C.F.R. § 1304.01, *et seq.*.
3. South Suburban Pharmacy is a pharmacy registered under 21 U.S.C. § 823 in drug Schedules 2, 2N, 3, 3N, 4 and 5 under DEA number BS9751492 since May of 2006. The current registered place of business for South Suburban Pharmacy is 3330 West 177th Street, Suite 1E, Hazel Crest, IL 60429. This place of business is a controlled premise within the meaning of 21 U.S.C. § 880(a) and 21 C.F.R. § 1316.02(c).
4. South Suburban Pharmacy is required to keep complete and accurate records of all controlled substances received, dispensed, purchased, delivered, or otherwise disposed of, pursuant to 21 U.S.C. 827 and 21 C.F.R. § 1304 *et seq.* at its controlled premises of 3330 West 177th Street, Suite 1E, Hazel Crest, Illinois 60429.

5. I have examined the files and records of the DEA and determined that South Suburban Pharmacy has never been inspected since it became registered with the DEA in May of 2006.

6. In October 2017, the DEA received information from a suburban police department regarding the recovery of several prescription drugs bearing the names of different individuals. One of the persons from whom the drugs (including alprazolam 2mg, a Schedule IV controlled substance, and promethazine with codeine cough syrup, a Schedule V controlled substance) were recovered informed the police that fraudulent prescriptions in the names of various individuals are routinely filled at South Suburban Pharmacy, located at 3330 West 177th Street, Suite 1E, Hazel Crest, Illinois 60429 (after a call is made to a pharmacist there) and are then sold for cash. One of the persons from whom the drugs were seized is known to the DEA as a leader within a drug trafficking organization, which during the time period of June 2016 to December 2017 caused to be filled about 200 fraudulent controlled substance prescriptions at pharmacies in Illinois, Indiana, Iowa, North Carolina, and Tennessee. When the information on these prescriptions was compared to the DEA registration certification, the phone number and occasionally the physician's address or practice name were incorrect. The phone number was incorrect on all of the prescriptions. During the course of the investigation, around nine practitioner's names and DEA registration numbers were used on the fraudulent prescriptions.

7. On or about October 8, 2017, I requested an Illinois Prescription Monitoring Program (ILPMP) report for South Suburban Pharmacy, located at 3330 W. 177th Street, Suite 1E, Hazel Crest, IL 60429, and registered with the DEA under Registration Number BS9751492. Under State of Illinois 77 Administrative Code Section 2080.100(a and b), all pharmacies are required to report to a centralized database the controlled substance prescriptions they had filled in the previous month. On or about October 18, 2017, I received a response from the ILPMP indicating

there is no data to report, meaning that South Suburban Pharmacy is not reporting to the ILPMP as required.

8. On or about October 18, 2017, I contacted the Illinois Department of Financial and Professional Regulation (IDFPR) Board of Pharmacy to inquire about the status of state licensure and any history of disciplinary actions for South Suburban Pharmacy. I learned from IDFPR Investigator Elizabeth Bhogapurapu that Carroll Smith, holder of a State of Illinois pharmacist license 051032006 is the pharmacist in charge at South Suburban Pharmacy, and Marcel Jean is the pharmacy owner. Smith's pharmacist license was disciplined by IDFPR following a 02/09/2015 state inspection which uncovered the following violations: licensees or registrants failing to wear identification bearing his or her name and designation; having an individual who did not hold licensure as a pharmacist or a certificate of registration to practice as a pharmacy technician was engaged in the dispensing process; failing to secure the pharmacy area from access by non-licensed persons whenever the pharmacy was not occupied by a registrant; food items and beverages in a refrigerator used to store drugs; failing to routinely provide counseling; failing to maintain adequate labeling on prepackaged drugs; and having several expired vials of medication in the active stock. As a result of the inspection, South Suburban Pharmacy's State of Illinois license number 054015826 was "Reprimanded" and the pharmacy was assessed a \$5,000 fine. A search of IDFPR online records database revealed an expired (03/31/2016) pharmacy technician license number 049107198 issued to Marcel Jean of Hazel Crest. The license was not renewed by IDFPR for "being more than 30 days delinquent in the payment of child support."

9. An inspection is therefore necessary to ensure South Suburban Pharmacy's compliance with the Controlled Substances Act, 21 U.S.C. § 801, *et seq.* and the regulations promulgated hereunder, and to inspect, copy, and verify the correctness of records, reports, or other documents

required to be kept or made under the Act and otherwise facilitating the carrying out of the Attorney General's functions under the Act, 21 C.F.R. § 1316.09(a)(2), 21 U.S.C. § 880(b)(1).

10. To preserve and promote the valid public interest in the effective enforcement of the Act and implementing regulations, DEA must inspect South Suburban Pharmacy's controlled premises at 3330 W. 177th Street, Suite 1E, Hazel Crest, Illinois 60429, to verify the correctness of inventories, records, and other documents required to be kept under the Act and the security provisions employed by South Suburban Pharmacy in the storing and handling of controlled substances.

11. The necessary inspection of South Suburban Pharmacy's controlled premises will begin as soon as practicable after a warrant is issued during regular business hours and will be completed with reasonable promptness, and the inspection warrant will be returned within ten days of its' issuance. Further, the inspecting DEA investigators will present their credentials prior to conducting the inspection.

12. The inspection will involve reviewing and copying of inventories, records, reports, order forms, invoices, dispensing records, prescriptions, and other documents required to be kept. The inspection will also extend to reviewing and copying all other things therein, including files and papers appropriate for verifying the records, reports, and documents required to be kept under the Controlled Substances Act.

13. The inspection will also extend to inspecting and auditing controlled substances. When necessary, the inspection will allow for the seizure of applicable records and samples of finished or unfinished controlled substances.

14. I will be accompanied by one or more diversion investigators or other U.S. Department of Justice personnel who are authorized to conduct administrative inspections.

15. I will return this warrant to the magistrate judge who issued the warrant within ten days of the completion of this inspection.

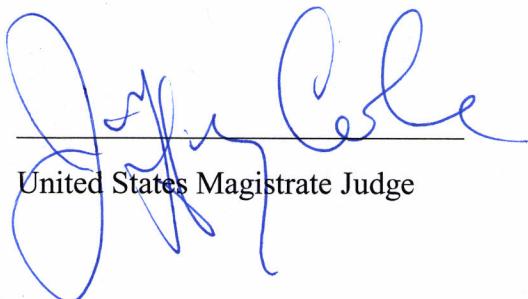
16. The statements in this affidavit and in the associated application for administrative inspection warrant are true and accurate to the best of my knowledge and belief.



ANITA KASZA
Diversion Investigator
United States Department of Justice
Drug Enforcement Administration

Sworn and subscribed to before me

On April 16, 2018



John Cole
United States Magistrate Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In the Matter of:

SOUTH SUBURBAN PHARMACY
3300 West 177th Street, Suite 1E
Hazel Crest, Illinois 60429

)
No. 18M258
Magistrate Judge Cole

ADMINISTRATIVE INSPECTION WARRANT

To Diversion Investigator Anita Kasza and any other duly authorized investigator or agent of the Drug Enforcement Administration of the United States Department of Justice.

Application having been made and probable cause as defined by 21 U.S.C. § 880(d)(1) having been shown by the affidavit of Diversion Investigator Anita Kasza of the Drug Enforcement Administration for an inspection of the controlled premise of South Suburban Pharmacy, 3330 West 177th Street, Hazel Crest, Illinois 60429, it appears that such inspection is appropriate pursuant to 21 U.S.C. §880(d)(1).

Therefore, pursuant to 21 U.S.C. §§ 878 and 880, you are hereby authorized to enter the above-described premise during normal business hours in order to, in a reasonable manner and to a reasonable extent, inspect and copy all records, reports, and other documents required to be kept or made under Subchapter I of the Controlled Substances Act. The investigators are further authorized, within reasonable limits and in a reasonable manner, to inspect the controlled premises and all pertinent equipment, controlled substances, and other substances or materials, containers, and labeling found therein as provided by 21 U.S.C. § 880(b)(3)(A), or otherwise bearing on the provisions of Subchapter I of the Controlled Substances Act. The investigators are further authorized to inventory any stock of any controlled substances therein and obtain samples of any such controlled substances. The diversion investigator will present her official credentials and written authority as prescribed in 21 U.S.C. § 880(b)(2).

You are hereby further authorized to seize from the above-described controlled premises such records, reports, documents, files, and inventories as are appropriate to the effective accomplishment of the inspection and for the purpose of copying and verifying their correctness or that are used or intended to be used in violation of the Controlled Substances Act, 21 U.S.C. § 801, *et seq.*

A prompt return shall be made by the inspecting officers to the undersigned magistrate, showing that the inspection has been completed and an accounting for all property seized pursuant to this warrant, no later than ten days from the date of issuance of this warrant.

Dated: April 16, 2018



A handwritten signature in blue ink, appearing to read "Jeffrey Cole". It is written in a cursive style with some loops and variations in letter height.

United States Magistrate Judge